

Case No. 1:04-cv-162
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to BOP interpretation of sentence administration statutes noting that the BOP is the agency charged with administering 18 U.S.C. §3585(b).” *See Reno v. Koray*, 515 U.S. 50, 60 (1995). 18 U.S.C. §3585(b) states that “A defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences . . .” The Bureau of Prisons Program Statement 5880.28, *Sentence Computation Manual CCCA*, establishes that a person detained by the INS while awaiting a deportation determination is not “in official detention” as required by 18 U.S.C. §3585(b). *See also Reno*, 515 U.S. at 60-61. Given that (1) Similien was subject to ICE control, not the Bureau of Prisons; and (2) detention prior to an exclusion proceeding concerns a civil, not criminal action, Similien’s request for credit for time served pursuant to 18 U.S.C. §3585(b) lacks merit. Neither party has objected to Magistrate Judge Gallas’ recommendations.

The Federal Magistrates Act requires a district court to conduct a de novo review only of those portions of the Report and Recommendation to which the parties have made an objection. 28 U.S.C. § 636(b)(1). Parties must file any objections to a Report and Recommendation within ten days of service. Failure to object within that time waives a party’s right to appeal the Magistrate Judge’s recommendation. FED. R. CIV. P. 72(a); *see Thomas v. Arn*, 474 U.S. 140, 145 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Absent objection, a district court may adopt the Magistrate Judge’s report without review. *Thomas*, 474 U.S. at 149. Moreover, having conducted its own review of the parties’ briefs on the issue, this Court agrees with the conclusions of the Magistrate Judge.

Accordingly, the Court adopts in whole Magistrate Judge Gallas’ findings of fact and conclusions of law and incorporates them fully herein by reference. Therefore, the Court **DENIES**

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Petitioner's Petition for Writ of Habeas Corpus.

IT IS SO ORDERED.

Dated: February 8, 2007

s/ *James S. Gwin*
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE